

County Contribution and Maintenance of Effort (MOE) to Area or County MHDDSA Authorities

Charge for Work Group: This document is the Division's initial effort to outline county contribution information and MOE requirements. The task of the Work Group will be to finalize a recommended document for DHHS and DMHDDSAS approval and subsequent distribution to counties and area authorities. **NOTE:** Pages 1 through 4 contain the draft material prepared by the Division; the remaining portion of the document – pages 5 through 16 - is only a restatement of relevant General Statutes provided for convenience.

I. Purpose of Document

The purpose of this document is twofold:

1. To set forth the Division's methodology and plans for calculating county resources which will be counted as a county's contribution to an area or county program for LME functions or services. The requirement to establish this methodology is set forth in G.S. 122C-112.1 (22). County MOE, as discussed below, will be a subset of a county's overall contribution, assuming a county provides in-kind goods and/or services as well as a cash contribution.
2. Of the county contribution identified herein, specify which of those resources will be counted as county MOE. This identification is needed to clearly establish the county MOE contribution which will be measured for statutory compliance with MOE requirements to maintain a county's contribution to the area or county program.

II. Explanation of difference between a county's overall county contribution and the part thereof which will be considered MOE by the Division.

Overall County Contribution: The amount of cash which a county appropriates and pays to an area authority or county program to support service cost or LME functions, PLUS the in-kind amount of goods and services which a county provides to support services or LME functions.

MOE: The amount of cash which a county appropriates and pays to an area authority or county program to support service cost, in accordance with Section III below.

What Will Be Measured for Statutory Compliance for County Funding: For the purpose of measuring compliance with General Statutes, the Division will measure only the MOE – as defined above. The value of county in-kind contributions and county non-MOE cash, however, will be counted and

considered as part a county's overall contribution but not for the purpose of defining and assessing a county's compliance with MOE statutory compliance.

III. Cash: What is to be Counted and Not Counted as County MOE

To be considered as county MOE, the following conditions must be met:

1. The county contribution of cash must be to the area authority or county program to qualify as MOE.
2. The county contribution of cash (MOE) must be for service cost.
3. If the county cash contribution is to support LME functions, this contribution must be in addition to the amount of cash previously provided to the area authority. Since the Division will fully fund the cost of LME functions in accordance with cost efficiencies determined via the LME Cost Model, or as otherwise agreed to by the Division, county funds shall not be redirected from services to LME functions to support cost beyond a minimally efficient level.

Should a county provide an additional county cash contribution to support LME functions, the Division will not consider this funding as an ongoing obligation by the county for the purpose of measuring a county's required MOE contribution in any subsequent year.

4. As set forth in G.S. 122C-115(d), counties may reduce their county funds for appropriations made on a one-time, non-recurring basis to the area authority for special needs. Contributions of this nature will be considered as part of a county's overall contribution but not as part of its recurring MOE commitment.
5. County cash contributions made to an area authority or county program from funds generated via revenues outlined in G.S. 18B-804, commonly referred to as ABC funds, shall not be considered within the MOE requirement. G.S. 18B-804 grants county commissioners discretionary authority for the allocation of these resources. These funds, however, will be considered within the county's overall contribution to the area authority or county program.

IV. Eligibility as In-Kind County Contributions

1. Fair market value for in-kind contributions of items such as space, goods and services, which may be made available directly by a county to the area authority or county program for LME functions or to service providers, will not be counted by the Division as part of a county's baseline MOE for statutory compliance.

2. To be considered a county in-kind contribution, the county in-kind contribution must be provided at no cost to the area authority or county program or its service providers. For example, if a county provides a building with an annual depreciation value of \$12,000 per year and does not charge the area authority or county program or its service providers for this space, then the \$12,000 may be considered an in-kind contribution. If, however, the county charges the area authority or county program or its service providers rent or a use fee for the same space, only the difference between the annual depreciation value of the property and a lower actual rental or use fee charged to the area authority or county program or its service providers may be included as a county contribution.
3. Property owned by the area authority, via resolution of the county boards of commissioners, and used by the area authority or county program or its service providers, may be counted as a county contribution, within the conditions outlined in items IV. 1. and 2. above.
4. The value of county indirect costs which are stepped down to the area authority or county program via the county's approved indirect cost plan may be included as a county contribution, to the extent the area authority or county program does not pay for such indirect cost.

V. Collection of County Contribution and MOE Information:

The Division shall rely upon data to be provided by each county, with sample monitoring by the Division, for the purpose of determining a county's overall contribution. The Division will issue, after consultation with the Association of County Commissioners, Council on Community MHDDSA Programs and DHHS Controller's Office, more detailed guidelines for valuing and reporting in-kind contributions, e.g., use of depreciation vs. fair market value, etc. In determining a county's MOE contribution, the Division will rely upon information reported by the LME on the Fiscal Monitoring Report, sample monitoring, audits, etc.

VI. Example of Total County Contribution and MOE Requirement

Example (if in compliance with Sections III and IV above):

Category	Total County Contribution	County MOE Amount
General Revenue to area authority or county program for services (recurring)	\$1,000,000*	\$1,000,000*
General Revenue to area authority or county program (one-time basis per G.S. 122C-115(d))	\$200,000	\$0
General Revenue to area authority or county program for LME functions (must be above baseline MOE amount)	\$150,000	\$0
ABC Funds to area authority or county program or directly to its service providers	\$55,000	\$0
In-Kind Property (to area authority or county program or directly to its service providers)	\$350,000	\$0
In-Kind Goods & Services (to area authority or county program or directly to its service providers)	\$75,000	\$0
TOTALS	\$1,830,000	\$1,000,000

- This is the same \$1,000,000 in each column.

VII. Publication and Utilization of County Funding Information

In any county funding publications, the Division will include a county's overall contribution, both in-kind and cash. Within this published information, cash MOE contributions will be separately identified. Again, only this county MOE will be considering in determining statutory funding compliance.

Counties may use this information, as they deem appropriate, in making funding comparisons among counties.

VIII. Restatement of N.C. General Statutes Relevant to County Contributions to Area or County MHDDSA Programs (NOTE: Underlines are only to assist reader in identifying specific requirements related to county contributions.) This information provided for ease of reference

§ 122C-115. Duties of counties; appropriation and allocation of funds by counties and cities.

(a) A county shall provide mental health, developmental disabilities, and substance abuse services through an area authority or through a county program established pursuant to G.S. 122C-115.1. To the extent this section conflicts with G.S. 153A-77(a), the provisions of G.S. 153A-77(a) control.

(b) Counties shall and cities may appropriate funds for the support of programs that serve the catchment area, whether the programs are physically located within a single county or whether any facility housing a program is owned and operated by the city or county. Counties and cities may make appropriations for the purposes of this Chapter and may allocate for these purposes other revenues not restricted by law, and counties may fund them by levy of property taxes pursuant to G.S. 153A-149(c)(22).

(c) Except as authorized in G.S. 122C-115.1, within a catchment area designated in the business plan pursuant to G.S. 122C-115.2, a board of county commissioners or two or more boards of county commissioners jointly shall establish an area authority with the approval of the Secretary.

(d) Except as otherwise provided in this subsection, counties shall not reduce county appropriations and expenditures for current operations and ongoing programs and services of area authorities or county programs because of the availability of State-allocated funds, fees, capitation amounts, or fund balance to the area authority or county program. Counties may reduce county appropriations by the amount previously appropriated by the county for one-time, nonrecurring special needs of the area authority or county program. (1977, c. 568, s. 1; c. 679, s. 7; 1979, c. 358, ss. 5, 23; 1981, c. 51, s. 3; 1985, c. 589, s. 2; 1989, c. 625, s. 14; 1995 (Reg. Sess., 1996), c. 749, s. 1; 1999-202, s. 1; 2001-437, s. 1.8.)

§ 122C-124.1. Actions by the Secretary when area authority or county program is not providing minimally adequate services.

(a) Notice of Likelihood of Action. - When the Secretary determines that there is a likelihood of suspension of funding, assumption of service delivery or management functions, or appointment of a caretaker board under this section within the ensuing 60 days, the Secretary shall so notify in writing the area authority board or the county program and the board of county commissioners of the area authority or county program.

The notice shall state the particular deficiencies in program services or administration that must be remedied to avoid action by the Secretary under this section. The area authority board or county program shall have 60 days from the date it receives notice under this subsection to take remedial action to correct the deficiencies. The Secretary shall provide technical assistance to the area authority or county program in remedying deficiencies.

(b) Suspension of Funding; Assumption of Service Delivery or Management Functions. - If the Secretary determines that a county, through an area authority or county program, is not providing minimally adequate services, in accordance with rules adopted by the Secretary or the Commission, to persons in need in a timely manner, or fails to demonstrate reasonable efforts to do so, the Secretary, after providing written notification of the Secretary's intent to the area authority or county program and to the board of county commissioners of the area authority or county program, and after providing the area authority or county program and the boards of county commissioners of the area authority or county program an opportunity to be heard, may:

- (1) Withhold funding for the particular service or services in question from the area authority or county program and ensure the provision of these services through contracts with public or private agencies or by direct operation by the Department.

Upon suspension of funding, the Department shall direct the development and oversee implementation of a corrective plan of action and provide notification to the area authority or county program and the board of county commissioners of the area authority or county program of any ongoing concerns or problems with the area authority's or county program's finances or delivery of services.

- (2) Assume control of the particular service or management functions in question or of the area authority or county program and appoint an administrator to exercise the powers assumed. This assumption of control shall have the effect of divesting the area authority or county program of its powers in G.S. 122C-115.1 and G.S. 122C-117 and all other service delivery powers conferred on the area authority or county program by law as they pertain to this service or management function. County funding of the area authority or county program shall continue when the State has assumed control of the catchment area or of the area authority or county program. At no time after the State has assumed this control shall a county withdraw funds previously obligated or appropriated to the area authority or county program.

Upon assumption of control of service delivery or management functions, the Department shall, in conjunction with the area authority or county program, develop and implement a corrective plan of action and provide notification to the area authority or county program and the board of county commissioners of the area authority or county program of the plan. The Department shall also keep the area authority board and the board of county commissioners informed of any ongoing concerns or problems with the delivery of services.

(c) Appointment of Caretaker Administrator. - In the event that a county, through an area authority or county program, fails to comply with the corrective plan of action required when funding is suspended or when the State assumes control of service delivery or management functions, the Secretary, after providing written notification of the Secretary's intent to the area authority or county program and the applicable participating boards of county commissioners of the area authority or county program, shall appoint a caretaker administrator, a caretaker board of directors, or both.

The Secretary may assign any of the powers and duties of the area director or program director or of the area authority board or board of county commissioners of the area authority or county program pertaining to the operation of mental health, developmental disabilities, and substance abuse services to the caretaker board or to the caretaker administrator as it deems necessary and appropriate to continue to provide direct services to clients, including the powers as to the adoption of budgets, expenditures of money, and all other financial powers conferred on the area authority or county program by law pertaining to the operation of mental health, developmental disabilities, and substance abuse services. County funding of the area authority or county program shall continue when the State has assumed control of the financial affairs of the program. At no time after the State has assumed this control shall a county withdraw funds previously obligated or appropriated to the area authority or county program. The caretaker administrator and the caretaker board shall perform all of these powers and duties. The Secretary may terminate the area director or program director when it appoints a caretaker administrator. Chapter 150B of the General Statutes shall apply to the decision to terminate the area director or program director. Neither party to any such contract shall be entitled to damages. After a caretaker board has been appointed, the General Assembly shall consider, at its next regular session, the future governance of the identified area authority or county program. (2001-437, s. 1.13(b).)

§ 122C-125. Area Authority financial failure; State assumption of financial control.

At any time that the Secretary of the Department of Health and Human Services determines that an area authority is

in imminent danger of failing financially and of failing to provide direct services to clients, the Secretary, after providing written notification of the Secretary's intent to the area board and after providing the area authority an opportunity to be heard, may assume control of the financial affairs of the area authority and appoint an administrator to exercise the powers assumed. This assumption of control shall have the effect of divesting the area authority of its powers as to the adoption of budgets, expenditures of money, and all other financial powers conferred in the area authority by law. County funding of the area authority shall continue when the State has assumed control of the financial affairs of the area authority. At no time after the State has assumed this control shall a county withdraw funds previously obligated or appropriated to the area authority. The Secretary shall adopt rules to define imminent danger of failing financially and of failing to provide direct services to clients.

Upon assumption of financial control, the Department shall, in conjunction with the area authority, develop and implement a corrective plan of action and provide notification to the area authority's board of directors of the plan. The Department shall also keep the county board of commissioners and the area authority's board of directors informed of any ongoing concerns or problems with the area authority's finances. (1995, c. 507, s. 23.2; 1995 (Reg. Sess., 1996), c. 749, s. 7; 1997-443, s. 11A.118(a).)

§ 122C-146. Fee for service.

The area authority and its contractual agencies shall prepare fee schedules for services and shall make every reasonable effort to collect appropriate reimbursement for costs in providing these services from individuals or entities able to pay, including insurance and third-party payment, except that individuals may not be charged for free services, as required in "The Amendments to the Education of the Handicapped Act", P.L. 99-457, provided to eligible infants and toddlers and their families. This exemption from charges does not exempt insurers or other third-party payors from being charged for payment for these services, if the person who is legally responsible for any eligible infant or toddler is first advised that the person may or may not grant permission for the insurer or other payor to be billed for the free services. However, no individual may be refused services because of an inability to pay. All funds collected from fees from area authority operated services shall be used for the fiscal operation or capital improvements of the area authority's programs. The collection of fees by an area authority may not be used as justification for reduction or replacement of the budgeted commitment of local tax revenue. (1977, c. 568, s. 1; 1979, c. 358, s. 16; 1985, c. 589, s. 2; 1989 (Reg. Sess., 1990), c. 1003, s. 4; 1991, c. 215, s. 2; 1993, c. 487, s. 3; c. 553, s. 36.)

§ 122C-112.1. Powers and duties of the Secretary.

(a) The Secretary shall do all of the following:

- (1) Oversee development of the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services.
- (2) Enforce the provisions of this Chapter and the rules of the Commission and the Secretary.
- (3) Establish a process and criteria for the submission, review, and approval or disapproval of business plans submitted by area authorities and counties for the management and provision of mental health, developmental disabilities, and substance abuse services.
- (4) Adopt rules specifying the content and format of business plans.
- (5) Review business plans and, upon approval of the business plan, certify the submitting area authority or county program to provide mental health, developmental disabilities, and substance abuse services.
- (6) Establish comprehensive, cohesive oversight and monitoring procedures and processes to ensure continuous compliance by area authorities, county programs, and all providers of public services with State and federal policy, law, and standards. Procedures shall include performance measures and report cards for each area authority and county program.
- (7) Conduct regularly scheduled monitoring and oversight of area authority, county programs, and all providers of public services. Monitoring and oversight shall include compliance with the program business plan, core administrative functions, and fiscal and administrative practices and shall also address outcome measures, consumer satisfaction, client rights complaints, and adherence to best practices.
- (8) Make findings and recommendations based on information and data collected pursuant to subdivision (7) of this subsection and submit these findings and recommendations to the applicable area authority board, county program director, board of county commissioners, providers of public services, and to the Local Consumer Advocacy Office.
- (9) Assist area authorities and county programs in the establishment and operation of community-based programs.
- (10) Operate State facilities and adopt rules pertaining to their operation.
- (11) Develop a unified system of services provided in area, county, and State facilities, and by

- providers enrolled or under a contract with the State.
- (12) Adopt rules governing the expenditure of all funds for mental health, developmental disabilities, and substance abuse programs and services.
 - (13) Adopt rules to implement the appeal procedure authorized by G.S. 122C-151.2.
 - (14) Adopt rules for the implementation of the uniform portal process.
 - (15) Except as provided in G.S. 122C-26(4), adopt rules establishing procedures for waiver of rules adopted by the Secretary under this Chapter.
 - (16) Notify the clerks of superior court of changes in the designation of State facility regions and of facilities designated under G.S. 122C-252.
 - (17) Promote public awareness and understanding of mental health, mental illness, developmental disabilities, and substance abuse.
 - (18) Administer and enforce rules that are conditions of participation for federal or State financial aid.
 - (19) Carry out G.S. 122C-361.
 - (20) Monitor the fiscal and administrative practices of area authorities and county programs to ensure that the programs are accountable to the State for the management and use of federal and State funds allocated for mental health, developmental disabilities, and substance abuse services. The Secretary shall ensure maximum accountability by area authorities and county programs for rate-setting methodologies, reimbursement procedures, billing procedures, provider contracting procedures, record keeping, documentation, and other matters pertaining to financial management and fiscal accountability. The Secretary shall further ensure that the practices are consistent with professionally accepted accounting and management principles.
 - (21) Provide technical assistance, including conflict resolution, to counties in the development and implementation of area authority and county program business plans and other matters, as requested by the county.
 - (22) Develop a methodology to be used for calculating county resources to reflect cash and in-kind contributions of the county.
 - (23) Adopt rules establishing program evaluation and management of mental health, developmental disabilities, and substance abuse services.
 - (24) Adopt rules regarding the requirements of the federal government for grants-in-aid for mental health, developmental disabilities, or substance abuse programs which may be made available to area

authorities or county programs or the State. This section shall be liberally construed in order that the State and its citizens may benefit from the grants-in-aid.

- (25) Adopt rules for determining minimally adequate services for purposes of G.S. 122C-124.1 and G.S. 122C-125.
 - (26) Establish a process for approving area authorities and county programs to provide services directly in accordance with G.S. 122C-141.
 - (27) Sponsor training opportunities in the fields of mental health, developmental disabilities, and substance abuse.
 - (28) Enforce the protection of the rights of clients served by State facilities, area authorities, county programs, and providers of public services.
 - (29) Adopt rules for the enforcement of the protection of the rights of clients being served by State facilities, area authorities, county programs, and providers of public services.
 - (30) Prior to requesting approval to close a State facility under G.S. 122C-181(b):
 - a. Notify the Joint Legislative Commission on Governmental Operations, the Joint Legislative Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and members of the General Assembly who represent catchment areas affected by the closure; and
 - b. Present a plan for the closure to the members of the Joint Legislative Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Senate Appropriations Committee on Health and Human Services for their review, advice, and recommendations. The plan shall address specifically how patients will be cared for after closure, how support services to community-based agencies and outreach services will be continued, and the impact on remaining State facilities. In implementing the plan, the Secretary shall take into consideration the comments and recommendations of the committees to which the plan is presented under this subdivision.
 - (31) Ensure that the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services is coordinated with the Medicaid State Plan and NC Health Choice.
- (b) The Secretary may do the following:

- (1) Acquire, by purchase or otherwise in the name of the Department, equipment, supplies, and other personal property necessary to carry out the mental health, developmental disabilities, and substance abuse programs.
- (2) Promote and conduct research in the fields of mental health, developmental disabilities, and substance abuse; promote best practices.
- (3) Receive donations of money, securities, equipment, supplies, or any other personal property of any kind or description that shall be used by the Secretary for the purpose of carrying out mental health, developmental disabilities, and substance abuse programs. Any donations shall be reported to the Office of State Budget and Management as determined by that office.
- (4) Accept, allocate, and spend any federal funds for mental health, developmental disabilities, and substance abuse activities that may be made available to the State by the federal government. This Chapter shall be liberally construed in order that the State and its citizens may benefit fully from these funds. Any federal funds received shall be deposited with the Department of State Treasurer and shall be appropriated by the General Assembly for the mental health, developmental disabilities, or substance abuse purposes specified.
- (5) Enter into agreements authorized by G.S. 122C-346.
- (6) Notwithstanding G.S. 126-18, authorize funds for contracting with a person, firm, or corporation for aid or assistance in locating, recruiting, or arranging employment of health care professionals in any facility listed in G.S. 122C-181.
- (7) Contract with one or more private providers or other public service agencies to serve clients of an area authority or county program and reallocate program funds to pay for services under the contract if the Secretary finds all of the following:
 - a. The area authority or county program refuses or has failed to provide the services to clients within its catchment area, or provide specialty services in another catchment area, in a manner that is at least adequate.
 - b. Clients within the area authority or county program catchment area will either not be served or will suffer an unreasonable hardship if required to obtain the services from another area authority or county program.
 - c. There is at least one private provider or public service agency within the area authority or county program catchment area, or

within reasonable proximity to the catchment area, willing and able to provide services under contract.

Before contracting with a private provider as authorized under this subdivision, the Secretary shall provide written notification to the area authority or county program and to the applicable participating boards of county commissioners of the Secretary's intent to contract and shall provide the area authority or county program and the applicable participating boards of county commissioners an opportunity to be heard.

- (8) Contract with one or more private providers or other public service agencies to serve clients from more than one area authority or county program and reallocate the funds of the applicable programs to pay for services under the contract if the Secretary finds either that there is no other area authority or county program available to act as the administrative entity under contract with the provider or that the area authority or county program refuses or has failed to properly manage and administer the contract with the contract provider, and clients will either not be served or will suffer unreasonable hardship if services are not provided under the contract. Before contracting with a private provider as authorized under this subdivision, the Secretary shall provide written notification to the area authority or county program and the applicable participating boards of county commissioners of the Secretary's intent to contract and shall provide the area authority or county program and the applicable participating boards of county commissioners an opportunity to be heard.
- (9) Require reports of client characteristics, staffing patterns, agency policies or activities, services, or specific financial data of the area authority, county program, and providers of public services. The reports shall not identify individual clients of the area authority or county program unless specifically required by State law or by federal law or regulation or unless valid consent for the release has been given by the client or legally responsible person. (2001-437, s. 1.7(b)).

§ 18B-805. Distribution of revenue.

(a)Gross Receipts. - As used in this section, "gross receipts" means all revenue of a local board, including proceeds from the sale of alcoholic beverages, investments, interest on deposits, and any other source.

(b) Primary Distribution. - Before making any other

distribution, a local board shall first pay the following from its gross receipts:

- (1) The board shall pay the expenses, including salaries, of operating the local ABC system.
- (2) Each month the local board shall pay to the Department of Revenue the taxes due the Department. In addition to the taxes levied under Chapter 105 of the General Statutes, the local board shall pay to the Department one-half of both the mixed beverages surcharge required by G.S. 18B-804(b)(8) and the guest room cabinet surcharge required by G.S. 18B-804(b)(9).
- (3) Each month the local board shall pay to the Department of Health and Human Services five percent (5%) of both the mixed beverages surcharge required by G.S. 18B-804(b)(8) and the guest room cabinet surcharge required by G.S. 18B-804(b)(9). The Department of Health and Human Services shall spend those funds for the treatment of alcoholism or substance abuse, or for research or education on alcohol or substance abuse.
- (4) Each month the local board shall pay to the county commissioners of the county where the charge is collected the proceeds from the bottle charge required by G.S. 18B-804(b)(6), to be spent by the county commissioners for the purposes stated in subsection (h) of this section.

(c) Other Statutory Distributions. - After making the distributions required by subsection (b), a local board shall make the following quarterly distributions from the remaining gross receipts:

- (1) Before making any other distribution under this subsection, the local board shall set aside the clear proceeds of the three and one-half percent (3 1/2%) markup provided for in G.S. 18B-804(b)(5) and the bottle charge provided for in G.S. 18B-804(b)(6b), to be distributed as part of the remaining gross receipts under subsection (e) of this section.
- (2) The local board shall spend for law enforcement an amount set by the board which shall be at least five percent (5%) of the gross receipts remaining after the distribution required by subdivision (1). The local board may contract with the ALE Division to provide the law enforcement required by this subdivision. Notwithstanding the provisions of any local act, this provision shall apply to all local boards.
- (3) The local board shall spend, or pay to the county commissioners to spend, for the purposes stated in subsection (h), an amount set by the board which shall be at least seven percent (7%) of the gross receipts remaining after the distribution required by subdivision (1). This provision shall not be applicable to a local board which is subject to a local act setting a different distribution.

(d) Working Capital. - After making the distributions

provided for in subsections (b) and (c), the local board may set aside a portion of the remaining gross receipts, within the limits set by the rules of the Commission, as cash to operate the ABC system. With the approval of the appointing authority for the board, the local board may also set aside a portion of the remaining gross receipts as a fund for specific capital improvements.

(e) Other Distributions. - After making the distributions provided in subsections (b), (c), and (d), the local board shall pay each quarter the remaining gross receipts to the general fund of the city or county for which the board is established, unless some other distribution or some other schedule is provided for by law. If the governing body of each city and county receiving revenue from an ABC system agrees, those governing bodies may alter at any time the distribution to be made under this subsection or under any local act. Copies of the governing body resolutions agreeing to a new distribution formula and a copy of the approved new distribution formula shall be submitted to the Commission for review and audit purposes. If any one of the governing bodies later withdraws its consent to the change in distribution, profits shall be distributed according to the original formula, beginning with the next quarter.

(f) Surcharge Profit Shared. - When, pursuant to G.S. 18B-603(d1), spirituous liquor is bought at a city ABC store by a mixed beverages permittee for premises located outside the city, the local board operating the store at which the sale is made shall retain seventy-five percent (75%) of the local share of both the mixed beverages surcharge required by G.S. 18B-804(b)(8) and the guest room cabinet surcharge required by G.S. 18B-804(b)(9) and the remaining twenty-five percent (25%) shall be divided equally among the local ABC boards for all other cities in the county that have authorized the sale of mixed beverages.

When, pursuant to G.S. 18B-603(e), spirituous liquor is bought at a city ABC store by a mixed beverages permittee for premises located at an airport outside the city, the local share of both the mixed beverages surcharge required by G.S. 18B-804(b)(8) and the guest room cabinet surcharge required by G.S. 18B-804(b)(9) shall be divided equally among the local ABC boards for all cities in the county that have authorized the sale of mixed beverages.

(g) Quarterly Distributions. - When this section requires a distribution to be made quarterly, at least ninety percent (90%) of the estimated distribution shall be paid to the recipient by the local board within 30 days of the end of that quarter. Adjustments in the amount to be distributed resulting from the closing of the books and from audit shall be made with the next quarterly payment.

(h) Expenditure of Alcoholism Funds. - Funds distributed under subdivisions (b)(4) and (c)(3) of this section shall be spent for the treatment of alcoholism or substance abuse, or for research or education on alcohol or substance abuse. The minutes of the board of county commissioners or local board spending funds allocated under this subsection shall describe the activity for which the funds are to be spent. Any agency or person receiving funds from the county commissioners or local

board under this subsection shall submit an annual report to the board of county commissioners or local board from which funds were received, describing how the funds were spent.

(i) Calculation of Statutory Distributions When Liquor Sold at Less Than Uniform Price. - If a local board sells liquor at less than the uniform State price, distributions required by subsections (b) and (c) shall be calculated as though the liquor was sold at the uniform price. (1981, c. 412, s. 2; c. 747, s. 52; 1983, c. 713, ss. 102-104; 1985 (Reg. Sess., 1986), c. 1014, s. 116; 1991, c. 459, s. 3; c. 689, s. 306; 1991 (Reg. Sess., 1992), c. 920, s. 4; 1993, c. 415, s. 27; 1997-443, s. 11A.118(a); 1999-462, s. 8.)